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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/544,657	04/06/2000	James K. Waller JR.	2007.00C	9208
7303	7590	06/01/2005	EXAMINER	
FRANK J CATALANO FRANK J CATALANO, P.C. 100 WEST 5TH ST., 10TH FLOOR TULSA, OK 74103-4990			LAO, LUN S	
			ART UNIT	PAPER NUMBER
			2643	

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/544,657

Applicant(s)

WALLER ET AL.

Examiner

Lun-See Lao

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-18 and 22-25 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 8, 10, 11, 13, 14 and 19-21 is/are rejected.
- 7) ☒ Claim(s) 6, 9, 12 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Introduction

1. This action is response to amendment filed on 12-27-2004. Claims 1, 4, 10, 13, 19 have been amended and claims 1-25 are pending.

Drawings

2. In addition to Replacement Sheets containing the corrected drawing figure (1), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

Claim Rejections - 35 USC § 112

3. Claims 1-5,7-8,10-11,13-14 and 19-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The driven "subtracting the dynamically varied right and left high frequency band signals from the left and right surround channel outputs when the summed high frequency band signal is dominant" (see specification page 15-

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18 and 24-25 and figs 1-13) was not supported in the further detail in the specification nor in any of claim.

Response to Arguments

4. Applicant's arguments with respect to claim 1-5, 7-8, 10-11, and 13-14, 19-21 have been considered but are moot in view of the new ground(s) of rejection.

13. Regarding applicant's argument the section 112 rejection (remarks page 14 third paragraph). The Examiner reads the figs, 3-4, 7, 9 and 10 and pages 15-18 and 24-25 carefully, but the examiner can not find that subtracting the right and left high frequency band signals from the left and right surround channel outputs when the summed high frequency band signal is dominant.

Allowable Subject Matter

5. Claims 16-18 and 22-25 are allowed.

Claims 6, 9, 12, 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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7. Any response to this action should be mailed to:

Mail Stop ____ (explanation, e.g., Amendment or After-final, etc.)

Commissioner for Patents

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Facsimile responses should be faxed to:

(703) 872-9306

Hand-delivered responses should be brought to:

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401 Dulany Street


Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lao,Lun-See whose telephone number is (571) 272-7501. The examiner can normally be reached on Monday-Friday from 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz, can be reached on (571) 272-7499.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 whose telephone number is (571) 272-2600.

Lao,Lun-See
Patent Examiner
US Patent and Trademark Office
Knox
571-272-7501


DUC NGUYEN
PRIMARY EXAMINER